

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

MARY HOLMES, L.V., and EMPOWER
MISSOURI,

Plaintiffs,

-against-

ROBERT KNODELL, in his official capacity
as Acting Director of the Missouri Department
of Social Services,

Defendant.

Case No. 2:22-cv-04026-MDH

**JOINT MOTION TO EXTEND
SCHEDULING ORDER
DEADLINES**

JOINT MOTION TO EXTEND SCHEDULING ORDER DEADLINES

Pursuant to Fed. R. Civ. P. 16(b)(4) and Local Rule 16.3, the parties jointly move the Court to extend the deadlines set forth in the Court's Scheduling and Trial Order for Bench Trial, ECF Doc. 28, as amended by the Court's order on September 29, 2022, ECF Doc. 60 (extending deadlines for the disclosure of expert witnesses), and offer the following to demonstrate need and show good cause for this request.

Cause for the Requested Extension

- 1. Defendant has not completed his discovery response, and has not yet determined when complete discovery responses will be produced.**

On June 2, 2022, Plaintiffs propounded their first round of discovery seeking responses to a single interrogatory and 17 document requests. *See* ECF Docs. 41, 42. Defendant responded to these requests on July 5, and subsequently supplemented his document production on September 2, September 16, September 30, October 14, and October 31, 2022. *See* ECF Doc. 48, 56, 57, 61, 62, 63. On August 11, 2022, Plaintiffs propounded a second round of discovery,

seeking responses to 7 interrogatory questions and 76 document requests. *See* ECF Docs. 53, 54. Defendant responded to these requests on September 26, and subsequently supplemented his document production on November 2, 2022. *See* ECF Docs 58, 64.

Despite Defendant's numerous productions, the status of discovery is essentially unchanged from two months ago when the parties filed their first joint status report. *See* ECF Doc. 55. Defendant is still reviewing numerous potentially responsive documents, and the parties continue to negotiate search terms that Defendant will use to identify additional responsive documents. Defendant still must conduct these new searches, and then must review and produce the documents located as a result of the new terms.

On November 4, Plaintiffs informed Defendant in writing of their belief that Defendant's responses to their second set of interrogatories and both sets of requests for production are insufficient. Defendant has yet to respond. In any event, Defendant cannot presently say with certainty when his response to Plaintiffs' pending discovery will be complete, nor is Defendant able to predict when he will be able to provide this information. Plaintiffs cannot properly identify deponents or experts, or conduct depositions until they receive this outstanding information.

2. Defendant will soon have new counsel in this case.

In February 2022, the day after Defendant was served, Assistant Attorneys General Langenheim and Jackson entered appearances as his litigation counsel. ECF Docs. 13, 14. In May, Ms. Langenheim withdrew; in June, Assistant Attorney General Hicks entered his appearance. ECF Docs. 36, 39, 44. Mr. Jackson will be leaving the Attorney General's office as of November 22, 2022. Mr. Hicks has just been elected to serve as Missouri District 108's Representative in the 102nd General Assembly, which will convene in January 2023. The parties

expect this complete turnover in defense counsel will cause some delay in the completion of discovery and the preparation of this case for trial.

Current and Proposed Deadlines

The parties thus seek an extension of the scheduling order deadlines, as follows:

1. Deadline to Add Parties and Amend Pleadings: The deadline for adding parties and amending pleadings is currently December 1, 2022. The parties request this date be extended to **March 1, 2023**.

2. Discovery:

a. The deadline for completion of discovery is currently January 30, 2023. The parties request this date be extended to **April 30, 2023**.

b. The parties are ordered to file a discovery status report on December 1, 2022. The parties suggest status reports also be filed on **January 13, and March 3, 2023**.

c. The deadline for disclosure of expert witnesses is February 7, 2023 and the deadline for the disclosure of rebuttal experts is February 29, 2023. The parties request these deadlines be extended to **May 5, 2023 and May 26, 2023** respectively, and that each expert will be made available for deposition in the order in which they are disclosed and within 21 days of the date they are disclosed, unless otherwise agreed upon by the parties.

d. The deadline for filing discovery motions, absent extraordinary circumstances, is December 30, 2022. The parties request this deadline be extended to **February 1, 2023**.

e. The deadline for filing *Daubert* motions is currently March 15, 2023. The parties request an extension to **June 16, 2023**.

3. Dispositive Motions: The parties suggest that the deadline for filing dispositive motions be extended from March 15 to **June 16, 2023**.

4. Trial and Related Dates:

a. The parties request a 3-4 day bench trial to begin **in late October 2023** (instead of July 24, 2023).

b. The parties further request that as in the Court's original order, the pretrial conference be set two weeks prior to the trial date, and the dates for the joint pre-trial memorandum, motions in limine, and disclosures of witness and exhibits lists and deposition designations be linked to the date of this conference as they were in the Court's original scheduling order.

Joint Unopposed Request

All parties agree that the requested extension is in the interest of justice and not for any improper purpose or for needless delay.

Relief Sought

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an order extending the deadlines, including the trial date, as set forth above.

Respectfully submitted,

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